UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/1994/SR.31
29 November 1994

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 22 November 1994, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

Organization of work (continued)

Consideration of reports:

(a) Reports submitted by States parties in accordance with article 16 of the Covenant

Argentina

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-70158 (E)

The meeting was called to order at 10.15 a.m.

ORGANIZATION OF WORK (continued)

1. Mr. SUREDA (Languages Service), commenting on the difficulties encountered in translating the Committee's official documents into Spanish, said that the capacity of the Languages Service depended largely on temporary assistance. The Spanish Section was more dependent than the other sections on temporary assistance because, for historical reasons, it had relatively fewer permanent staff members in relation to its workload. Its budgetary resources for temporary assistance, already insufficient for the volume of work, had been further cut by some 50 per cent in the current biennium. At the same time, the number of pages for translation had risen, resulting in an increasing imbalance between capacity and volume of work. Efforts were being made to correct that imbalance by raising productivity and having greater recourse to self-revision. However, it was still necessary for the Committee clearly to identify its essential needs and establish priorities. The situation would not really improve unless the resources made available to the Languages Service were increased, the work volume was reduced, or there was a combination of both. Otherwise, difficulties and delays would be inevitable.

2. The CHAIRPERSON called on the secretariat to provide statistical information on the situation in the four working languages of the United Nations Office at Geneva. A short-term solution should at least be found for the next few years.

CONSIDERATION OF REPORTS (agenda item 4)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 16 OF THE COVENANT

Argentina (E/1990/5/Add.18; E/C.12/1994/WP.10)

3. At the invitation of the Chairperson, Mr. Sanchez Arnau, Mr. Paz and Miss Tosonotti (Argentina) took places at the Committee table.

4. Mr. SANCHEZ ARNAU (Argentina) said that article 75 of the new National Constitution of Argentina established the Covenant as having precedence along with other international human rights instruments over national law. All such instruments had to be approved by a two-thirds majority of each chamber of the Legislature in order to enjoy precedence. Moreover, a new procedure had been established so that other international treaties would have the same status under the Constitution.

5. There had been a long history of human rights violations in Argentina, where democracy was still very young. Between 1952 and 1983, when Mr. Alfonsin took office, no President had been able to complete his term. During that time the applicability of human rights law had been very limited. That recent history had been accompanied by a constant interruption of social and economic policies. Each Government had had its own particular orientation, which meant that the continuity needed to build an efficient and just society had been lacking. That situation had been reflected in the

continuing loss of investment and consequent decline in growth rates over a 30-year period. The per capita product of 1989 barely equalled that of 1970. The worst human rights violations had occurred between the mid-1970s and 1983, when thousands of political crimes, murders and disappearances had occurred. In addition, hundreds of thousands of people had gone into exile, and millions had been excluded from access to the democratic process. The concentration of political power had in turn led to corruption and impunity for the dictatorships, which had used that power for their own benefit and at the expense of the rest of society. In addition, the constant changes in legislation and the absence of a legislative power capable of controlling the Executive had weakened the entire government apparatus, diminished the credibility of the Government and made it difficult to carry out a consistent policy not based on the use of force. The war in the south Atlantic had resulted in the weakening of the military, which lost the ability to control society, making the return to democracy inevitable.

6. The work of reconstructing Argentina was still under way, however, and was extremely difficult. It had been further disrupted by four attempted coups during the first six years of the restored democracy. None the less, the civilian Government had been able to restore order, had reviewed major legal instruments with regard to human rights and had clarified and defined crimes and other violations of human rights; that, in turn, had caused a certain amount of political and social tension. However, the Argentine people had learned after decades to live in freedom.

7. The end of the dictatorship had left Argentina with an enormous external debt burden; subsequent errors in economic policy had sparked off runaway inflation, which at the height of the crisis, between June 1988 and June 1989, had reached a rate of 3,700 per cent annually, or 6.5 per cent daily. The country's currency had been destroyed, and the purchasing power of wage earners and retirees had collapsed. The flight of capital had drained US$ 30,000 million of Argentina's wealth. When the new Administration had come to power in June 1989, there had not been a single peso in the country's reserves, and the external debt had climbed to more than $160,000 million. Those figures would help the Committee to understand Argentina's difficulties in guaranteeing the right to work and to social security and in meeting the needs of the most disadvantaged members of society.

8. The fiscal deficit, which had amounted to 14 per cent of GDP, had been exacerbated by inefficient and corrupt state enterprises and the heavy burden of servicing the external debt. State control of the economy had been too high, at one point exceeding 35 per cent of GDP. Inflation had forced the Government to cut public expenditure, raise taxes and increase fees for public services.

9. Over the past few years, however, an austerity programme had brought current inflation down to 4 per cent annually. That effort had been the single largest contribution to implementing basic social rights, because nothing eroded the income of disadvantaged groups or had such a disastrous impact on wages and retirement benefits as inflation; under the circumstances, it had been impossible to find the resources to meet all social needs in the areas of health care and education.

10. The Government's efforts had resulted in a burst of investment, creating more jobs than ever before. Economic growth over the past three years had continued at a rapid pace and was expected to be near 7 per cent for 1994. The prospects for economic expansion in Argentina were greater than they had ever been since the 1920s.

11. Other positive developments over the past five years had included the transfer of responsibility in the educational and health-care sectors from the central Government to the provinces and the deregulation of economic activities to open a wide array of economic opportunities to all Argentines.

12. The Constitution of Argentina provided that retired persons had the right to a monthly income determined as a percentage of their salary upon retirement. During the economic crisis, the Government had been unable to pay even a small part of pensions. Efforts had been made to raise resources through higher taxes, but the proceeds had quickly lost value because of inflation. Argentina had then begun paying its debts by issuing bonds and by privatizing industries. Thus, 30 per cent of the receipts from privatization had gone to reimburse the national debt. Proceeds from the selling-off of oil companies had been used to pay the debt in the social security system. As a result, Argentina had been able to reschedule its debt servicing and revive the capital market.

13. Mrs. BONOAN-DANDAN, speaking on a point of order, suggested that the delegation of Argentina might address the points contained in the list of issues prepared by the Committee (E/C.12/1994/WP.10).

14. Mr. SANCHEZ ARNAU (Argentina) said that he was, in fact, answering some of the issues raised under article 9 concerning the social security system. Information had already been provided on the application of the legislation in force.

15. Mr. WIMER ZAMBRANO agreed with Mrs. Bonoan-Dandan. He noted that the delegation of Argentina had not supplied any documentation on its reply to the matters raised in the second part of the list of issues, starting with issue No. 5. It would therefore be best for the delegation of Argentina to turn to those issues forthwith.

16. Mr. SANCHEZ ARNAU (Argentina) said that there was apparently a problem of distribution and translation. Part of the document had not been translated into English. He was prepared to provide additional information orally, as needed. Some information was still with the secretariat, and some had not yet been distributed.

17. The CHAIRPERSON said that the problem did not seem to be one of translation. Members of the Committee had received a text in Spanish on issues Nos. 1 to 4, but no written information on issues Nos. 5 to 23 - nor, to his knowledge, had the secretariat. Although it was desirable to have information in writing in advance, that clearly had not been possible, and he therefore asked whether the delegation of Argentina would make further written information available and whether it could provide specific answers orally to the matters raised in the list of issues.

18. Mr. SANCHEZ ARNAU (Argentina) said it was his understanding that a report had been submitted to the secretariat on issues Nos. 9 to 15. As far as article 10 was concerned, Argentina had already submitted a document of some 400 pages on all aspects of the family and children to the Human Rights Committee. He had assumed that that document would also be available to the Committee.

19. The CHAIRPERSON said that as far as he knew, the secretariat had not been provided with any further documents. Presumably the representative of Argentina had been referring to the Committee on the Rights of the Child, which had not concluded its report on Argentina because it had felt that it had not received enough information from that country. Even if the secretariat could obtain a copy of that report, the delegation of Argentina would still need to identify the relevant parts that specifically answered the questions asked by the Committee.

20. Mr. PAZ (Argentina) said that his delegation had submitted a report to the Committee on the Rights of the Child, a copy of which he could submit to the Committee if it so wished.

21. New statistics, which would be available in a few weeks, would show that the standard of living in Argentina had risen; his delegation had preferred to wait until the new data had appeared so that it could provide the Committee with up-to-date figures.

22. Mr. TEXIER suggested the Committee should follow its usual procedure, which was for the head of the delegation to make an introductory statement and then reply to the list of issues raised by the pre-sessional working group. The delegation of Argentina had submitted a written document with replies to the first four issues only. The Committee now needed answers on the remaining issues. The original report did not refer to articles 9 and 11 at all, and answers were therefore required on the points raised in connection with those articles as well. The Committee should now go on to its specific questions on articles 6 to 12.

23. The CHAIRPERSON said that the Argentine report to the Committee on the Rights of the Child mainly listed legislation in Argentina and did not contain statistics or detailed information on the actual enjoyment of the rights in question.

24. The Committee would like the delegation to give specific answers to each of its questions; alternatively consideration of the report of Argentina could be postponed.

25. Mr. SANCHEZ ARNAU (Argentina), recapitulating his position, said that the report to the Committee on the Rights of the Child dealt with article 10 of the Covenant. Moreover, in the written report which his delegation had brought on that day the Committee's questions were specifically answered. His delegation was prepared to answer any question in the list of issues and to give any further clarification requested by members of the Committee. His understanding was that the general introduction on which he had previously embarked gave comprehensive information on the recent implementation of the Covenant in Argentina together with statistics. The information provided

dealt with the actual foundations of the enjoyment of the rights in Argentina and the provision of resources to enable those rights to be enjoyed. That was why he had tried to explain the economic situation in Argentina.

26. Mr. GRISSA suggested that if the delegation of Argentina was not in a position to provide the supplementary information requested by the Committee, the meeting should be suspended to allow the delegation time to reply.

27. Mrs. JIMENEZ BUTRAGUEÑO agreed with Mr. Grissa.

28. Mr. SANCHEZ ARNAU (Argentina) said that his delegation saw no reason to suspend the meeting.

29. The CHAIRPERSON said that the Committee noted that the Argentine report (E/1990/5/Add.18) did not address article 9 at all. What was needed was not general information on the existence of a social security system in Argentina but on the extent of its coverage and on whether there were significant population groups that were not covered or were inadequately covered.

30. He further recalled that the issues raised in articles 6, 7 and 8 had not yet been answered and suggested that the Argentine delegation might wish to reply to them.

31. Mr. SANCHEZ ARNAU (Argentina) said that if the Committee had allowed him to finish his statement, the concerns raised in its list of issues would have been answered.

32. He proposed to deal with article 9 on the right to social security. Article 14 bis of the Constitution imposed the obligation to pay social security benefits to the whole population. The State organized a single social security system, run by the National Social Security Administration. It covered industrial accidents, old age, invalidity, family and death benefits. The Ministry of Labour dealt with the unemployment benefit, and other government departments were in charge of integrated programmes for sickness and housing benefits. He pointed out that the rights recognized in the Covenant were not absolute, but relative.

33. In October 1993 Act No. 24241 had established an integrated retirement and pensions system, which entered into force on 15 July 1994. There was thus now a single social security system based on State benefits financed by a distribution system and individual capitalization. All beneficiaries had the possibility of staying in the former system or of opting for the new one. Membership of one of the schemes was compulsory for all workers including the self-employed, and voluntary affiliation was open to other persons such as housewives. The State security system provided, inter alia, a basic universal benefit, a compensatory benefit and a pension paid on the contributor's death. It was financed inter alia by employer's contributions, specific taxes, Government funds, interest, fines, investment income and contributions from persons who had not joined the private system.

34. The private system was financed by the personal contributions of salaried and self-employed workers who had decided to opt out of the State system. The benefits included an ordinary and an invalidity retirement pension and a pension paid on the contributor's death.

35. The new system already had more than 3 million members out of a total of 11 million workers. The old system would be continued until the death of the present contributors. The new system had been set up because the debts of the State social security system were so great that the system could no longer meet its obligations.

36. Mrs. BONOAN-DANDAN thanked the delegation for its enlightening remarks. She drew attention to question 6 under article 9 in the Committee's revised general guidelines (E/C.12/1991/1) asking whether there were any groups which did not enjoy the right to social security or which did so to a significantly lesser degree than the majority of populations. In particular what was the situation of women in that respect?

37. Mrs. IDER also thanked the delegation for its comprehensive introduction. She would, however, like to know whether there were special programmes for indigenous peoples as mentioned in question 12 in the list of issues. Moreover the Committee had heard representatives from non-governmental organizations in Argentina speak of the inadequacy of retirement pensions and she would like to know whether the Government had any plans to raise such pensions.

38. Mr. TEXIER recalled that the representative of Argentina had mentioned the difficult period through which his country had passed in 1976 to 1983. A number of laws had been passed to bring those guilty of excesses to justice, and that was a source of great satisfaction to the international community. However in Argentina, as in many other countries, democracy was still fragile. There had been four attempted coups d'état, and less satisfactory developments such as the Punto Final law and the general amnesty. Those responsible for assassinations, torture and disappearances were still in the background and the former heads of military juntas still believed that they had been acting in the best interests of Argentina all along.

39. As far as the Covenant was concerned, he asked whether the Government of Argentina considered that its disengagement at various levels, and the intensive privatization and deregulation undertaken by it were the best way of complying with the provisions of the Covenant. He wondered whether the most vulnerable sectors of society were not being sacrificed and whether those policies were in keeping with the spirit of the Convention.

40. The Argentine report (E/1990/5/Add.18) contained no information on the implementation of articles 9 and 11 of the Covenant. It gave a good description of the legislation and regulations but nothing about the real situation and any difficulties encountered in putting the provisions of the Covenant into effect.

41. On the basis of information provided, not by the report but by other sources including a group of non-governmental organizations, he had some questions to ask.

42. He noted that recent legislation had introduced a new mixed regime for the payment of pensions in which contributors no longer participated in the management of the funds and which coincided with a reduction of the resources available. How would it be possible to prevent massive reductions in the medium- and long-term future? At the moment the gap could be met by using the proceeds from privatizations, but privatizations could not be resorted to indefinitely.

43. Mr. ALVAREZ VITA, after recalling the representative of Argentina's statement that the rights affirmed by the Covenant were not absolute but relative and the statement made by the representative of a NGO from Argentina to the effect that the Government was legislating by decree even when Parliament was in session, asked what measures the Government was taking to ensure that the rights set forth in article 9 of the Covenant were not eroded and whether the Government had weighed the consequences for article 9 of Argentina's integration into MERCOSUR.

44. Mrs. JIMENEZ BUTRAGUEÑO inquired whether there was any difference in treatment between men and women with regard to the payment of retirement and other benefits.

45. Mr. SANCHEZ ARNAU (Argentina), replying to the additional questions put by members, said that in accordance with the Constitution and current legislation no social sector was excluded from the social security system and no distinction was made between Argentine citizens and the large number of foreigners living in the country.

46. The indigenous population of Argentina was very small, since the country had been largely unpopulated at the time when it had been conquered. Since then some of the few indigenous groups had moved away, while others had been integrated into the mainstream of Argentine society. Nevertheless, the recent reform of the Constitution had recognized the rights of the indigenous groups that remained to dignity, bilingual education and the joint ownership of their lands, which could not be alienated or mortgaged. There was no discrimination against ethnic groups in social security benefits.

47. It was true that many pensions in Argentina were very inadequate. The reason for that was that the previous system had been left without its own resources and pensions had been paid out of contributions by employed persons. Inflation had also caused the value of the funds to fall, leading to a crisis in which the State had no longer been able to finance deficits in the funds. Consequently, the State had had to reduce pensions substantially, acknowledging its debt by issuing long-term bonds. The problem was how to raise funds to pay off the debt, and that was being done by privatization. Most of the debt had already been paid off, and the rest would be paid off as soon as circumstances allowed. Everybody agreed that the situation needed to be improved. That could be achieved through inflation, but Argentine society was unwilling to accept such a solution.

48. Another way to increase State funds would be to increase taxation, but that would reduce the investment needed to create jobs, of which there had been little in Argentina over the past 40 years. Thus the only way to increase pensions was to increase the resources of the State through

privatizations. Also, the Government was no longer making payments in bonds but in cash and had proposed the introduction of a system of capitalization based on what the individual contributed and the yield obtained on it.

49. Commenting on Mr. Texier's remarks, he said that the State, instead of disengaging, was really doing the opposite. It was, indeed, withdrawing from the operation of public enterprises such as transport, gas, electricity and munitions factories, whose services had been of poor quality and corrupt. They had been privatized, and the proceeds were being used to improve justice, health, education and social security without increasing the public debt or issuing more money.

50. Time would, of course, be needed to provide adequate pensions, since problems that had persisted for 40 years could not be solved in a short time. The Government was very worried about the current level of pensions and had recently submitted a bill to Parliament to reduce the high-level privileged pensions paid to State officials after they had worked for only a few years. In an attempt to establish a fairer system and to increase lower-level pensions, all the civil servants affected had been urged to renounce certain rights. Rights were absolute, but resources were relative.

51. With regard to the effects of deregulation and privatization, it should be borne in mind that at present enormous economic progress was being made in Argentina, with very high growth and investment rates. Most of the currency that had left the country had returned to it and foreign investment was substantial, only part of it going into the purchase of privatized enterprises. Moreover, approximately one third of the State deficit had derived from the losses made by State-owned enterprises. Thus, although the State would no longer be able to raise funds through privatizations, it would be spared the cost of financing loss-making enterprises.

52. The CHAIRPERSON announced that the consideration of Argentina's report would be resumed at the next meeting.

The meeting rose at 1 p.m.